

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**IN RE:**

**JAMES KEVIN RUSSELL  
TRACY LEE RUSSELL,  
  
DEBTORS.**

**Case No.: BK-15-11693-R  
Chapter 7**

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF  
PROPERTY AND NOTICE OF OPPORTUNITY FOR HEARING**

WILMINGTON SAVINGS FUND SOCIETY, FSB, DOING BUSINESS AS CHRISTIANA TRUST, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR BCAT 2014-4TT, (hereinafter “Movant”) and pursuant to the provisions of 11 U.S.C. §§361, 362 and 554, moves the Court to grant it relief from the automatic stay and order of abandonment of the subject property. In support of its Motion, Movant alleges and states as follows:

1. James K Russell, the debtor, for good and valuable consideration, made, executed and delivered to Primary Residential Mortgage Inc. a certain promissory note dated December 29, 2008 in the original principal amount of \$84,442.00 (the “Note”). A true copy of said note is hereto attached, and made a part hereof.

2. As a part of the same transaction, and to secure the payment of the Note and the indebtedness represented thereby, James K Russell, being then the owner of the real estate hereinafter described, made, executed and delivered to Primary Residential Mortgage Inc. a real estate mortgage also dated December 29, 2008, and recorded on December 31, 2008 at Document Number 2008129222 in the Tulsa County Land Records (the “Mortgage”), encumbering the following described real estate situated in Tulsa County, State of Oklahoma, to-wit:

The South Half (S1/2) of Lot Five (5), Block Six (6), RADIO HEIGHTS, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 938; a/k/a 1340 South 161st East Avenue, Tulsa, OK 74108;

The Mortgage also encumbers the buildings, improvements, appurtenances, hereditaments, and all other rights thereunto appertaining or belonging, and all fixtures then or thereafter attached or used in connection with said premises. A true and correct copy of said mortgage is attached hereto, and made a part hereof.

3. Primary Residential Mortgage Inc. endorsed the note to “blank” making it a bearer Note. As the holder of the Note, Movant is duly authorized to request the relief sought in the Motion.

4. Sufficient cause exists under 11 U.S.C. §362(d) to grant the relief requested by Movant. First, Debtor has defaulted on the terms of the Note and Mortgage. As of October 2, 2015, the loan is due February 1, 2010, and subsequent payments with an outstanding principal balance of \$83,304.52 plus accruing interest, attorney fees, costs and expenses, and other allowable charges. Movant’s interest in the property is not adequately protected.

5. Movant will suffer irreparable injury, loss and damage unless the automatic stay is terminated so as to permit Movant to commence with foreclosure action.

6. Because there is no equity in the subject property, it is burdensome and of inconsequential value to the estate.

#### **NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.** If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Northern District of Oklahoma, 224 South Boulder, Tulsa, Oklahoma 74103 no later than 14 days

from the date of the filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. **The 14 day period includes the 3 days allowed for mailing provided for in Rule 9006(f) Fed. R. Bankr. Proc.**

WHEREFORE, Movant prays this Court enter an Order vacating or modifying the automatic stay herein; directing the Trustee herein to abandon the mortgaged property; and for such further relief as this Court deems appropriate.

WILMINGTON SAVINGS FUND  
SOCIETY, FSB, DOING BUSINESS AS  
CHRISTIANA TRUST, NOT IN ITS  
INDIVIDUAL CAPACITY BUT SOLELY  
AS TRUSTEE FOR BCAT 2014-4TT,

By: s/ Jim Timberlake  
JIM TIMBERLAKE - #14945  
Baer Timberlake, P.C.  
4200 Perimeter Center, Suite 100  
Oklahoma City, OK 73102  
Telephone: (405) 842-7722  
Fax: (918) 491-5424

**CERTIFICATE OF SERVICE**

I hereby certify that I mailed a true and correct copy of the above and foregoing Motion with postage thereon fully prepaid to all parties claiming an interest in the subject property as listed below, and those parties listed on the attached Creditor's Mailing Matrix, on October 6, 2015.

James Kevin Russell  
Tracy Lee Russell  
1340 South 161 East Ave  
Tulsa, OK 74108

The following persons should have received notice of the above and foregoing instrument on the same day it was filed by the Court's CM/ECF Electronic Noticing System.

Scott P. Kirtley  
502 West 6th Street  
Tulsa, OK 74119-1016

Robt. S. Coffey  
406 S. Boulder Ave.  
Ste. 400  
Tulsa, OK 74103

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